

# City of Burien, Washington

## Shoreline Advisory Committee

### Meeting #8 Summary

October 21, 2009

4:00pm

#### (1) ATTENDANCE

SAC Members present	Technical Staff Present	Interested Parties Present
Jim Branson Bruce Berglund Patrick Haugen Don Warren Joe Weiss George Yocum	David Johanson Bob Fritzen Liz Ockwell	Chestine Edgar Robert Edgar Tanya Engeset John Upthegrove

#### (2) CONFIRM AGENDA

1. The agenda was confirmed

#### (3) REVIEW AND APPROVE MEETING #7 SUMMARY

1. There was consensus to accept meeting summary as presented. The Committee had the following discussion:
  - David Johanson discussed the follow-up item from the previous meeting. He followed up on the definition of 'extreme high water' and stated that it is the highest recorded tide from NOAA datum sites. Pat Haugen commented that the language in 20.30.070.2.i is not clear and there are many existing bulkheads taller than 1 foot above extreme high water. Bob Fritzen responded that it would be difficult to revise the language to be more flexible in this regard due to the various site specific situations that exist on the shoreline for any given situation. Each property owner with a bulkhead proposal would need to provide site specific science to determine how tall a bulkhead is needed for their property. David Johanson explained that the 1 foot above extreme high water regulation was carried forward from the existing SMP and if a proposal to reconstruct an existing bulkhead was less than that measurement the project would qualify for a shoreline exemption. The current language states that bulkheads must be below this height and if a property owner would like to build a taller bulkhead, a variance would be required.
  - David Johanson discussed the comments received prior to meeting #8. He stated that the comments were more general, and not specific to any one section of the SMP.
  - Don Warren stated he feels the SMP is a weak document because there is no enforcement written into the document to protect the shoreline. David Johanson responded that there is a section in the Administrative

Chapter of the SMP that addresses enforcement. Don Warren and other committee members commented that enforcement is reactive versus proactive and they are concerned that this will not be enough to protect the shoreline from no net loss and there shall be no degradation to water quality, ecological function, and flora and fauna in Lake Burien. A higher level of protection could be achieved through hiring a position specifically for shoreline protection.

- George Yocum reinforced the desire for proactive enforcement regarding violations on the shoreline not only for property owners, but also public use of the shoreline. He stated that there are many people who use the shoreline which could have a negative effect on the functions of the shoreline depending on their actions.
- Bob Fritzen responded that although the enforcement issue is included in the SMP, the issue of active enforcement goes beyond the major scope and intent of the document. David Johanson commented that policy regarding the desire for proactive enforcement could be included in the document if the committee desires. He continued to explain that although the SMP is specific to the City of Burien, and these policies and regulations also come from the Department of Ecology who are the overall overseers of shoreline master program update process. He stated that the committee's purpose is to craft a document unique to Burien's characteristics and issues and the document should include what is important to them. Bob Fritzen discussed that the committee needs to bring back the focus of the meeting to putting together the policies and regulations desired and while addressing the guidelines Department of Ecology requires.
- There was consensus to add a new policy;
  - The city should be proactive in enforcing shoreline regulations and provide sufficient resources to ensure enforcement occurs.
- Don Warren also asked how the City can ensure all input from the committee and the public is considered before the document is adopted. David Johanson responded with an explanation of the process the SMP is going through prior to final adoption. After it is reviewed by the Shoreline Advisory Committee, it will then be brought to the Planning Commission, then the City Council, then by the Department of Ecology. Public hearings will occur at each stage to consider public comment.

**(4) SHORELINE USES AND MODIFICATIONS, POLICIES AND REGULATIONS, CHAPTER IV:** Pat Haugen led the continued discussion of Chapter IV.

**1. 20.30.075 Commercial, Institutional and Office**

- Don Warren commented that he would like to prohibit commercial development on Lake Burien. David Johanson responded that the SMP must be consistent with the comprehensive plan and zoning code and the scope of the

SMP update does not include changes to existing comprehensive plan and zoning designations.

- Don Warren suggested that 20.30.001 Figure 4 Shoreline Use/ Modification Matrix be revised to prohibit commercial use. A discussion followed whether all commercial and office uses shall be prohibited and if home occupations would be placed in the same categories. David Johanson suggested a footnote be added under Residential Single family allowing associated accessory uses such as home occupations. The committee reached a consensus to remove the uses commercial and office from the matrix. There was also consensus to amend 20.30.075[2.e] to read as follows

- Bed and Breakfast establishments, as an accessory to a single-family residence, proposed within a Residential zoning district are required to meet the policy and regulations for both Residential and Commercial uses.

## 2. 20.30.080 Docks, Piers and Floats

- Comments were submitted regarding 2.c.iii which seeks to minimize impacts on shoreline nearshore ecological functions. Pat Haugen referred to the written comment list and asked if the committee felt that additional language should be added to address the potential impacts of overwater structures shading and interrupting the sediment transport process. The committee reached a consensus to revise 2.c.iii to read as follows:

*iii. Minimize adverse effects on fish, shellfish, wildlife, water quality and geohydraulic processes by limiting the size of the structure and the use of hazardous materials, incorporating grating to allow light passage or reflective panels to increase light refraction; and spaced and oriented to minimize shading and avoid a 'wall' effect that would block or baffle wave patterns, currents, littoral drive, or movement of aquatic life forms.*

- Pat Haugen referred to the suggested language regarding maintenance dredging and asked if the committee want to add the policy to the section. The committee reached a consensus to add the following policy:

*f. Overwater structures should be designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in original moorage design shall not be grounds for approval of dredging.*

## 3. 20.30.085 Habitat Restoration and Enhancement

- A written comment was submitted suggesting additional policy to further express the City's desire to encourage uses that incorporate restoration projects along the shoreline. The SAC chose not to incorporate this language.
- David Johanson discussed 2.k and stated that the language came from state law and reflects changes recently made for restoration resulting in movement of the ordinary high water mark (OHWM).

#### 4. **20.30.090 Recreational Development**

- Pat Haugen asked if the term 'private club' could be revised to remove 'club' from the 1<sup>st</sup> paragraph under this section. The committee reached a consensus to revise the language to remove the word 'club' from the paragraph.
- Don Warren asked if the word 'commercial' should be included in 2.a. The committee had a discussion regarding where commercial recreational development should be allowed such as kayak or canoe rental, and reached a consensus that it should only be allowed in Seahurst Park. The language was revised to read:

a. Commercial recreational development or use in Seahurst Park shall be consistent with the provisions of this section and the provisions of section 20.30.075 BMC for commercial uses.

Don Warren suggested language should be added to 2.f to limit the size of boats allowed on Lake Burien. He stated one of the primary reasons for limiting the size of boats is to prevent non-native plants being introduced into Lake Burien. There were comments not in favor of placing detailed regulations regarding the size of boats in the SMP. Bob Fritzen suggested an additional regulation be added. The committee reached a consensus to add an additional regulation to read:

h. Should public access occur on Lake Burien, only hand-carried watercraft shall be allowed.

#### 5. **20.30.095 Recreational Mooring Buoys**

- Don Warren suggested language to prohibit mooring on Lake Burien. The committee reached a consensus to add an additional regulation to read:

i. Mooring buoys are prohibited on Lake Burien.

#### 6. **20.30.100 Residential Development**

- A comment was submitted regarding accessory dwelling units (ADU's) and if the SMP and zoning code are consistent in their regulations. Bob Fritzen commented that ADU's should be specifically called out in the SMP because they are not defined in the WAC as 'normal appurtenances'. David Johanson reviewed the ADU existing regulations and

also informed the committee of a new zoning code amendment that would regulate the size and height of accessory structures, which in the zoning code, include ADU's. Pat Haugen stated that regulation 2.a states "residential development shall protect existing shoreline and water views...." David Johanson explained that this language comes from state law and is meant to address view blockage affecting multiple structures and does not apply to just one structure. George Yocum asked if there are any clear impacts ADU's have on net loss of function of the shoreline. Bob Fritzen responded that clear impacts are not known, but the role of zoning code is to limit impacts of development.

- Chestine Edgar was recognized from the audience and stated that language needs to be written into the regulations regarding height limits and address covenants on properties. She commented that the City overwrote all covenants on property by regulating single-family residential height to 35 feet. Bob Fritzen and David Johanson responded that covenants are enforced by private property owners and homeowners associations. Covenants are a civil matter that the City has no authority to enforce private agreements.

#### **7. 20.30.110 Utilities**

- Don Warren asked if policy 1.d could be removed from the SMP. He does not think public utility easements should provide public access to the shoreline. The committee reached a consensus to remove policy 1.d from the SMP.
- Don Warren asked to add language to 2.e that directional boring be prohibited under Lake Burien. There was concern that the clay layer that holds the water in the lake would be disturbed and could lower the lake level. David Johanson responded that he does not believe that this is a likely possibility given that most utilities are already in place around the lake and if such a project was undertaken it would be of such a size and scale that the proposal would be looked at in detail under the SEPA process which would address any potential impacts.

**(5) ADMINISTRATIVE PROCEDURES, CHAPTER V:** David Johanson asked the committee if they would like to take more time at this meeting to look at Chapter V Administrative procedures. He stated that this chapter is taken from state law and woven in are pieces from the existing zoning code. The committee did not express interest in going over Chapter V and opted to wait until the next meeting.

#### **(6) NEXT STEPS AND NEXT MEETING:**

1. Another meeting for further discussion has been scheduled for October 28, 2009, in the same location and at the same time.

The meeting concluded at 6:12pm.